

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In the matter of:

Hon. William Alsup, Dist. Court
Hon. Dennis Montali, BK Court

BRUGNARA PROPERTIES VI, Case #17-30501-DM
a California corporation

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NOV 20 2018

UNITED STATES BANKRUPTCY COURT
SAN FRANCISCO, CA

FILED

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UNITED STATES BANKRUPTCY COURT
SAN FRANCISCO, CA

MOTION TO EXTEND DATE
OF ADVERSARIAL HEARINGS
REGARDING NOMINEE CLAIMS
OR ISSUANCE OF WRIT TO
US MARSHALS TO IMMEDIATELY
TRANSPORT LUKE BRUGNARA
TO SAN FRANCISCO TO MEET
WITH COUNSEL AND TESTIFY
AT ADVERSARIAL HEARING
DECLARATION LUKE BRUGNARA

Party In Interest Luke Brugnara requests this Court extend the date of the adversarial hearings on the nominee claims for 120 days, so that Luke Brugnara may complete his sentence and properly prepare with counsel and testify at this hearing. Because these adversarial nominee claims are exclusive to the relationship between Luke Brugnara and the debtor, Brugnara Properties VI, a California corporation ("BDVI"), Luke Brugnara's testimony is essential for this court to make a fully-informed decision.

Under the 6th and 14th Amendments of the United States Constitution, Luke Brugnara is

entitled to have access to counsel and legal material. Defendant (US Attorney's) actors, Bureau of Prisons ("BOP") have intentionally violated Luke Brignara's Constitutional Rights under these Amendments by depriving him access to counsel and legal documents/materials.

Specifically, Luke Brignara was just placed in isolation solitary confinement ("hole") by BOP on Oct 29, 2018, which has no phone access, no legal access because "BOP made a mistake/error in placing Brignara at Beaufort USP HIGH prison (for 6 months) when Brignara only has LOW CAMP designation points; so far Brignara is still after he must remain in SIS ("hole") (with no access to phone or legal documents or even glasses - EMPHASIS ADDED until Brignara is transferred". In summation, BOP, at the directive of Defendant, illegally placed Brignara at the worst USP HIGH prison in the United States (Beaufort USP) to harm Brignara when Brignara is LOW/CAMP point designation under BOP Statement Policy 5700.08...

This was done by Defendant's actors this past week strategically to impede BPV1's preparation and Luke Brignara's preparation for this Court's December adversary hearings on the nominee claims.

This illegal, inexplicable "mistake" by Defendant's actors is CONSISTENT with the dirty gamesmanship/illegal acts perpetrated throughout Brignara's case, as detailed in the currently pending 2255 Motions (see cr:14-0306 WHA 2255 Reply Feb. 2018, Mar 2018, Apr 2018 AND the Habeas Corpus Motion filed Aug. 2018) and Habeas Corpus Motions filed with the District Court (Also) that detail the shocking, sickening injustices Luke Brignara has suffered AS AN INNOCENT MAN (EMPHASIS ADDED). Please take the time to read these relevant motions as

they are specific to the adverse and retaliatory actions between the Defendants in this case (the US Attorneys and their actors) and LukeBngnars,⁽³⁾ and will give this Court a summary of this highly contentious and shockingly illegal abuses of power by the Defendant; which still are yet to be adjudicated by Judge Alsup, but have been preliminarily ordered as "not-fraudous" and "mentors" by Alsup when he~~s~~ Issued an Order To Show Cause last year, which is still pending final adjudication in District Court.

Regarding the false claims by Defendant regarding Luke Bngnars and BPVI, these claims fail at every point as there is no alter-ego/nominee relationship by and between Luke Bngnars and BPVI as already ruled in California Superior Court in 2016 and as ruled by Judge Alsup and Judge Spero and Judge Cousins in Federal Court, by inference, when they all ruled in 2010-2018 that Luke Bngnars has no ownership interest in BPVI or Soz Cliff, (nominee, direct, or otherwise) and is entitled to CJA counsel. This was stipulated each time by the Defendants without opposition. Nothing New has been discovered since those rulings that would warrant relitigating. This is merely a continuing attack on Luke Bngnars and his family by the Defendant, as thoroughly detailed in cr14-0306 WHTA 2253s Reply, Feb-April 2018, to muzzle and suppress the truth and hold the Defendants accountable for their illegal and unacceptable actions.

Additionally, the Defendants continue to

mistate the facts (lie), which caused this Court into an inaccurate ruling last month regarding BPVI, when they (and this Court) falsely stated/ruled: "BPVI was formed by Luke Brugnara and key Brugnara to hold title to See Cliff". In fact, BPVI WAS FORMED TO BE THE MANAGING GENERAL PARTNER OF BRUGNARA PROPERTIES I LP TO HOLD TITLE TO 357 CALIFORNIA STREET IN 2002 BY ORRICK HARRINGTON MANAGING PARTNER BILL MURRAY NOT TO HOLD TITLE TO SEE CLIFF. (EMPHASIS ADDED).

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Further waste of taxpayers dollars in the Defendants' continued assault on Luke Brugnara included unnecessary 10 hour depositions of Luke Brugnara to "fish" for "anything new" because CA Superior Court (in 2016) and Alsop, Spears and Cassins (in 2010-2018) already negated any relationship between BPVI and Luke Brugnara, and the overly broad subpoenas of bank records (in the 11th hour). As the Defendants, and this Court are well aware, LUKE BRUGNARA has made TENS of MILLIONS of DOLLARS of income over the past 17 years as detailed in his 1040 Tax Returns on file with the IRS, including \$4 MILLION in 2008/2009. Any living expenses of the Brugnara family has been paid by Luke Brugnara verified income as stated herein. There was been NO use of any "BPVI funds" for personal use, as BPVI/See Cliff generates no income AND the debt on BPVI/See Cliff today (2018) is nearly IDENTICAL to the debt on BPVI/See Cliff in 2002 when See Cliff was purchased by BPVI (\$8M of debt); so this

1. This error/mistake was memorialized in written Administrative complaints filed by Brignara 6 months ago with Defendants' 2nd Regional DOA, but ignored -- Brignara's "safety" only became issue when Brignara's attorney began calling Beaumont USP for legal calls - then Brignara was put into 24/7 confinement ^{to not give legal calls, no phone, no legal} (no phone, no legal) hypothesis by Defendant fails on simple math (debt service + taxes on \$8M annually = \$1M+ year).

It is critically important for Luke Brignara to be at any adversarial hearings involving the relationship between BPVI and Luke Brignara. The Defendant has used its considerable powers and its factors to intentionally muffle and enslave BPVI and Luke Brignara in litigating and preparing for these hearings by LITERALLY locking Luke Brignara in a "closet/toilet/cell" 24/7, with no phone, no glasses, no legal access 3,000 miles from San Francisco. (BOP Statement Policy 5700.08 REQUIRES inmate to be within 500 miles of open/active Federal cases) at the worst USP/HIGH prison in the country. When Brignara has Low/CAMP points -- (Judge Alsup recommended "LOMPOC CAMP"). Not coincidentally, Brignara's sentence is over and his 2255s and Habeas Corpus Motions are pending with favorable preliminary rulings, yet Defendant puts Brignara in 24/7 solitary "for his safety" due to "other error/mistake" (EMPHASIS ADDED). weeks before the scheduled adversarial nomination motions. This Court can certainly see through this charade (Luke Brignara has no "investigations" or "incident report" and is simply in SHIT hole due to Defendant's 2nd's error/montana mistake).

relevant

(6)

= Other facts are: 9th Circuit Judge Milan Smith

ruled in FOURTH INVESTMENT LP (2013):

1.) "nominee is alter-ego"

2.) "Federal Courts defer to state court rulings on nominee/alter ego claims" (State of Alaska v. BPV1 (2016))

• SPOTTS V. USA (2012) (9th Circuit) detailed the "test" for alter-ego/nominee claims, which MIGHT apply to BPV1 and Luke Bryan. Moreover, Federal Judges Alsup, Cousins and Spero, with stipulation and no opposition of the US Attorneys, ruled in 2010-2018 that:

1.) "Sea Cliff has at least \$1M+ of equity."

2.) "Luke Bryan has NO ownership whatsoever in that equity of Sea Cliff or BPV1 (25 direct owner, nominee, or otherwise).

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This Court is not a venue for the nominal relationship between the Defendant and Luke Bryan. BPV1 has secured subordinate financing to pay off the subordinate lenders with one year debt service reserves prepaid as the new 2nd TD and existing 1st TD. BPV1 has substantial equity per the Walbec Appraisal and is the Bryan home for 20 years. Luke Bryan, who makes millions of dollars a year undisputed, is home in months. There is no need to fuel and enable an unnecessary litigation. The Defendants cannot obstruct and muzzle Luke Bryan's Constitutional Right to access his attorneys, legal materials and the Court, which they are doing now. Luke Bryan respectfully requests this Court grant this Motion in the interests of justice. The foregoing is true and correct under penalty.

*Please forward a copy of this to Judge Alsup.